



# CALIFORNIA FARM BUREAU FEDERATION

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November 13, 2007

Chairman Ross Johnson  
Commissioner Ray Remy  
Commissioner Eugene Huguenin  
Commissioner Robert Leidigh  
Commissioner Tim Hodson  
Fair Political Practices Commission  
428 J Street, Suite 620  
Sacramento CA 95814-2329

Re: Adoption of Proposed Regulation 18530.31  
FPPC Meeting of November 14, 2007  
Agenda Item # 15

Dear Chairman Johnson and Commissioners:

California Farm Bureau Federation (CFBF) is a nonprofit membership organization that represents, protects and advances interests of the state's farmers and ranchers. To further that purpose, CFBF sponsors a general purpose recipient committee (GPRC), California Farm Bureau Fund to Protect the Family Farm (FARM PAC<sup>®</sup>).

Because of that sponsorship, CFBF is very concerned about proposed regulation 18530.31. As proposed, the regulation would prevent contributors to FARM PAC from having the full measure of their contributions go to their intended and lawful purpose of being used by FARM PAC as contributions to candidates for elective state office.<sup>1</sup>

Instead, the regulation would force FARM PAC to use some portion of those contributions to pay for FARM PAC's own fundraising expenses. The regulation would do that by capping payments by CFBF for FARM PAC's fundraising expenses at the amount specified by Government Code section 85303, subdivision (a),<sup>2</sup> under the theory asserted by FPPC staff that contributions made to a GPRC for the purpose of paying for the GPRC's fundraising expenses are in fact "for the purpose of making contributions to candidates for elective state office." Thus, with CFBF prohibited from making to FARM PAC contributions for fundraising purposes in excess of the cap, those expenses would

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<sup>1</sup> All references hereafter to "candidates" mean "candidates for elective state office."

<sup>2</sup> All statutory references hereafter are to the Government Code.

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have to be paid for with some portion of the contributions made to FARM PAC by other persons.<sup>3</sup>

CFBF urges the FPPC to reject the staff's theory. Contributions made to a GPRC for the purpose of paying for the GPRC's fundraising expenses are not made for the purpose of *making* contributions to candidates. Rather, they are used for the purpose of *raising* such contributions.

While the drafters of Proposition 34 could have easily written section 85303 to encompass that additional distinct purpose,<sup>4</sup> they did not do so. Consistent with the drafters' intent that section 85303's scope be limited and focused, the FPPC should not now unwarrantedly expand it by semantically bootstrapping that other purpose onto the express limited purpose covered by the statute.

An interpretation of section 85303 that results in the non-application of the cap to contributions to a GPRC for its fundraising expenses would cause no harm that Proposition 34 sought to prevent. The targeted harm in this context is the making by a person, including a GPRC, to a candidate of a contribution so large that the candidate feels in some way beholden to the person. Government Code section 85301 addresses that concern by limiting the contributions a person, including a GPRC, may make to candidates. No matter how much money it may raise for candidate contributions where its fundraising expenses are paid by uncapped contributions, a GPRC may not make to any candidate a contribution in excess of the section 85301 cap.

Indeed, extending the cap on contributions made to or accepted by a GPRC for the purpose of *making* contributions to candidates to those made to or accepted by it for the purpose of *raising* contributions to candidates would undermine the balancing of goals that is apparent in the statute. While section 85301 clearly bars a person from making to a GPRC an excessive contribution that the GPRC is to use to spread among one or more candidates, it just as clearly anticipates that the GPRC may use the full measure of the person's capped contribution in that way. But as noted above, the proposed regulation would force the GPRC to use some of the person's contribution to cover the GPRC's fundraising expenses because it would limit contributions by its sponsor for those expenses. The regulation would thus undermine the statute and rob the person of his statutory right to have the GPRC use all of his contribution to make contributions to candidates.

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<sup>3</sup>Recognizing that FPPC staff guidance on this subject has to a great extent been the same as the theory behind the proposed regulation, CFBF has for years been following the staff guidance in supporting and operating FARM PAC. Nonetheless, CFBF appreciates this opportunity to present its views on this subject in the hope that the FPPC will reject that principle rather than embrace it through codification and expansion of it.

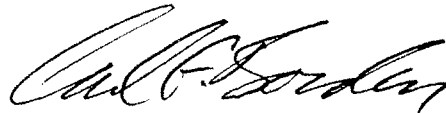
<sup>4</sup>The phrase "or raising contributions for" could have been inserted between "to" and "candidates" in both subdivisions (a) and (c) of section 85303.

In addition to this overarching misguided thrust of the proposed regulation, it goes beyond even what FPPC staff previously suggested, in that it appears to subject to Proposition 34's limits contributions by a organization to its sponsored GPRC for the GPRC's administrative, overhead and some fundraising expenses. This revision makes a bad proposal even worse.

Further, the proposed regulation ignores and conflicts with the provisions of section 85312. It provides that payments for communications to members and others connected with an organization for the purpose of supporting or opposing a candidate are not contributions or expenditures. If, despite the concerns raised here and by others about it, the approach taken in the proposed regulation were to be adopted, then the regulation should at least be amended to recognize the exemption provided in section 85312.

Specifically, the regulation should confirm that to the extent a membership organization makes such payments for the purpose of raising funds for its GPRC, which funds it will use to make contributions supporting or opposing a candidate, those payments are not contributions and thus are not subject to section 85303 or the regulation. This principle is followed in section 6 of FPPC Advice Letter No. A-97-320.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Carl G. Borden". The signature is fluid and cursive, with the first name "Carl" being more prominent.

CARL G. BORDEN